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BEFORE THE  
ILLINOIS COMMERCE COMMISSION

|                                    |   |            |
|------------------------------------|---|------------|
| ILLINOIS COMMERCE COMMISSION       | ) | DOCKET NO. |
| On Its Own Motion                  | ) | 10-0133    |
| -vs-                               | ) |            |
| COMMONWEALTH EDISON COMPANY        | ) |            |
| Reconciliation of revenues         | ) |            |
| collected under coal tar riders    | ) |            |
| with prudent costs associated with | ) |            |
| coal tar cleanup expenditures.     | ) |            |

Springfield, Illinois  
Wednesday, January 26, 2011

Met, pursuant to notice, at 10:00 a.m.

BEFORE:

MR. LARRY JONES, Administrative Law Judge

APPEARANCES:

MR. MARK R. JOHNSON  
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(Appearing via teleconference on  
behalf of Commonwealth Edison  
Company)

SULLIVAN REPORTING COMPANY, by  
Carla J. Boehl, Reporter  
CSR #084-002710

1 APPEARANCES: (Continued)

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7 (Appearing via teleconference on  
8 behalf of Commonwealth Edison  
9 Company)

10 MR. MIKE OSTRANDER  
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12 Financial Analysis Division  
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16 (Appearing on behalf of Staff of  
17 the Illinois Commerce  
18 Commission)

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|----|--------------------------|-----------------|--------------|-----------------|-----------------|
| 1  | <u>I N D E X</u>         |                 |              |                 |                 |
| 2  | <u>WITNESS</u>           | <u>DIRECT</u>   | <u>CROSS</u> | <u>REDIRECT</u> | <u>RECROSS</u>  |
| 3  | (None)                   |                 |              |                 |                 |
| 4  |                          |                 |              |                 |                 |
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| 10 |                          |                 |              |                 |                 |
| 11 |                          | <u>EXHIBITS</u> |              |                 |                 |
| 12 |                          |                 |              | <u>MARKED</u>   | <u>ADMITTED</u> |
| 13 | ComEd 1.0                |                 |              | E-Docket        | 24              |
| 14 | ComEd 2.0, 2.1           |                 |              | E-Docket        | 24              |
|    | ComEd 3.0, 3.1, 3.2, 3.3 |                 |              | E-Docket        | 24              |
| 15 | ComEd 4.0, 4.1           |                 |              | E-Docket        | 24              |
|    | ComEd 5.0                |                 |              | E-Docket        | 24              |
| 16 | ComEd 6.0                |                 |              | E-Docket        | 24              |
|    | ComEd Group 1.0          |                 |              | E-Docket        | 24              |
| 17 | ICC Staff 1.0, 1.1       |                 |              | E-Docket        | 25              |
| 19 |                          |                 |              |                 |                 |
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| 22 |                          |                 |              |                 |                 |



1 Financial Analysis Division for the Illinois Commerce  
2 Commission.

3 JUDGE JONES: Thank you. Are there any other  
4 appearances?

5 (No response.)

6 Let the record show there are not, at  
7 least at this time.

8 To provide a very brief opportunity to  
9 go over the process for today's hearing, we hereby go  
10 off the record.

11 (Whereupon there was then had an  
12 off-the-record discussion.)

13 JUDGE JONES: Back on the record. There was an  
14 off-the-record discussion for the purposes indicated.  
15 It concerned the process and procedures for today's  
16 hearing. There was also some brief discussion about  
17 the procedural side of the Motion for Entry of a  
18 Protective Order. There was also some discussion  
19 about whether the record would be closed today or  
20 left open.

21 I think that the parties, starting  
22 with ComEd, are ready to proceed with the offering of

1     their testimony and exhibits, some of which will be  
2     offered in two versions, the second version being a  
3     proprietary version. And those items, evidentiary  
4     items, will be offered via affidavit. Let me make  
5     sure that that sequence works for everybody.

6                     Is that workable then for ComEd, to go  
7     ahead and proceed with that task?

8             MR. JOHNSON: It is, Your Honor.

9             JUDGE JONES: So why don't you go ahead and  
10    proceed with that?

11            MR. JOHNSON: Sure. ComEd moves for admission  
12    into evidence of the following exhibits:

13                    The first is ComEd Exhibit 1.0, the  
14    '09 Annual Report to the Illinois Commerce  
15    Commission, Operation of Rider ECR, Environmental  
16    Cost Recovery. This was filed February 26, 2010, on  
17    e-Docket.

18                    The second item is ComEd Exhibit 2.0  
19    which is the direct testimony of Peter McCauley. It  
20    includes Exhibit 2.1 and it was filed February 26,  
21    2010, on e-Docket.

22                    The next is ComEd Exhibit 3.0 which is

1 the direct testimony of Kevin Waden. It includes  
2 supporting exhibits 3.1, 3.2 and 3.3. It was also  
3 filed February 26, 2010, on e-Docket.

4 The fourth item is ComEd Exhibit 4.0,  
5 the rebuttal testimony of Kevin Waden. It includes  
6 supporting Exhibit 4.1. It was filed December 15,  
7 2010, on e-Docket.

8 The fifth item is ComEd Exhibit 5.0.  
9 This is the affidavit of Peter McCauley filed January  
10 25, 2011, on e-Docket.

11 The sixth item is ComEd Exhibit 6.0  
12 which is the affidavit of Kevin Waden filed January  
13 25, 2011, on e-Docket.

14 The final item is ComEd Group Exhibit  
15 1.0 which is ComEd's responses to Staff's data  
16 request FDR-1 through FDR-22 which was filed January  
17 25, 2011, on e-Docket. And with respect to that  
18 exhibit, because some of the data request responses  
19 contain confidential and proprietary information, we  
20 filed both a public version and a non-public  
21 confidential and proprietary version for which we are  
22 requesting confidential treatment of.

1                   And with that, that concludes ComEd's  
2 request for admission into evidence.

3           JUDGE JONES: Thank you, Mr. Johnson. Any  
4 comments or objections to that?

5           MR. OSTRANDER: No, Your Honor.

6           JUDGE JONES: All right. Let the record show  
7 that those exhibits are hereby admitted into the  
8 evidentiary record. They are admitted as they appear  
9 on the e-Docket system. The dates on which they were  
10 filed were already stated by Mr. Johnson. I will not  
11 repeat those at this time. As Mr. Johnson indicated,  
12 the documents admitted are ComEd Exhibits 1.0, 2.0,  
13 2.1, 3.0, 3.1, 3.2, 3.3, 4.0, 4.1, 5.0, 6.0.

14                   Also admitted are ComEd Group Exhibit  
15 1.0. It is admitted in two versions, the public  
16 version, 1.0 Public, is admitted into the evidentiary  
17 record. The confidential version, Group Exhibit 1  
18 Confidential and Proprietary, is admitted into the  
19 evidentiary record. It is afforded proprietary  
20 treatment and will continue to be afforded  
21 proprietary treatment by virtue of this ruling today  
22 and by virtue of a written version of this ruling



1     which will be issued yet this week.

2                     (Whereupon ComEd Exhibits 1.0,  
3                     2.0, 2.1, 3.0, 3.1, 3.2, 3.3,  
4                     4.0, 4.1, 5.0, 6.0 and Group  
5                     Exhibit 1.0 Public and  
6                     Confidential were admitted into  
7                     evidence.)

8             JUDGE JONES:   Are there any questions or points  
9     of clarification with regard to the admission or  
10    status of any of the ComEd exhibits?

11            MR. JOHNSON:   None from ComEd, Your Honor.

12            MR. OSTRANDER:  None from Staff, Your Honor.

13            JUDGE JONES:   Thank you.   We will move ahead  
14    then to the Staff filing.   Mr. Ostrander, you are  
15    going to offer yours via affidavit also, is that  
16    correct?

17            MR. OSTRANDER:  That's correct, Your Honor.

18            JUDGE JONES:   All right.   So we will not swear  
19    you in since you are using the affidavit process.  
20    But you can go ahead like Mr. Johnson did and  
21    identify what it is you are offering.

22            MR. OSTRANDER:  Okay.   Staff requests that the

1 following two exhibits be moved into the record of  
2 evidence:

3 First is the direct testimony of Mike  
4 Ostrander which is identified as ICC Staff Exhibit  
5 1.0 and was filed on e-Docket on November 22, 2010.  
6 It also contains one schedule identified as Schedule  
7 1.01.

8 And, second, the affidavit of Mike  
9 Ostrander identified as ICC Staff Exhibit 1.1 that  
10 was filed on e-Docket on January 21, 2011.

11 JUDGE JONES: Thank you. Are there any  
12 objections or clarifications with regard to the items  
13 being offered by Mr. Ostrander?

14 MR. JOHNSON: ComEd has no objection.

15 JUDGE JONES: Let the record show that those  
16 evidentiary items are admitted into the evidentiary  
17 record as they appear on the e-Docket system on the  
18 filing dates indicated by Mr. Ostrander. More  
19 specifically, that's Staff Exhibits 1.0 and the  
20 affidavit 1.1.

21 (Whereupon ICC Staff Exhibits  
22 1.0 and 1.1 were admitted into

1 evidence.)

2 JUDGE JONES: Before I forget, I believe the  
3 parties are also going to be using some post-hearing  
4 scheduling involving eventually the filing of a draft  
5 Order. Mr. Johnson, what's the date for that and the  
6 process?

7 MR. JOHNSON: Yeah. So ComEd would propose  
8 filing the draft Proposed Order on Friday, March 4,  
9 2011. Prior to that, a week prior to that, we would  
10 file a draft of that with Staff or at least provide a  
11 copy of it to Staff a week prior for their review and  
12 comment so we can incorporate their comments prior to  
13 filing the final version on the 4th.

14 JUDGE JONES: Thank you. As indicated a couple  
15 of minutes ago, a ruling and/or protective order will  
16 be issued later this week. It will afford  
17 protection, that is proprietary treatment, to all the  
18 proprietary, confidential and proprietary, items in  
19 the confidential and proprietary version of ComEd  
20 Group Exhibit Number 1. The confidential and  
21 proprietary version is also sometimes referred to as  
22 the unredacted version. So by this ruling those

1 items are afforded proprietary treatment and  
2 protection. The ruling to be issued later this week  
3 will be essentially a written version of the oral  
4 ruling today.

5 In the event that ComEd and ComEd  
6 counsel believe that there should be some  
7 modification to that ruling to properly protect the  
8 information, then ComEd is hereby given leave to make  
9 a filing to seek modification of that ruling to cover  
10 those concerns. Before leaving that topic, let me  
11 make sure there are no other questions or need for  
12 clarification with regard to it.

13 Is there any need for any  
14 clarification with respect to the request for  
15 proprietary treatment, the process for that?

16 (No response.)

17 Okay. Let the record show no  
18 response. So that is what we will do. And I think  
19 the intent is to go ahead and close the record today  
20 subject to any post-hearing filings that may be made.  
21 One of those is the draft Order to be filed, but  
22 another such item potentially would be a Motion to

1     Modify the Ruling regarding protection of proprietary  
2     documents.

3                     I believe the plan is to go ahead and  
4     close the evidentiary record today and mark the  
5     record heard and taken, subject to the above, since  
6     the evidentiary material will be in the record. So  
7     is there any objection to the marking of this matter  
8     heard and taken today subject to the above?

9             MR. JOHNSON: No objection.

10            JUDGE JONES: Thank you. Is there anything  
11     else to take up at this hearing today before we do  
12     just that?

13                             (No response.)

14            JUDGE JONES: Let the record show there is not.  
15     At this time then let the record show that today's  
16     hearing is over and in accordance with the above and  
17     subject to the above, this hearing is hereby marked  
18     heard and taken.

19                             HEARD AND TAKEN

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